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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 10.04.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.57 of 2006

R.Mohana ... Petitioner

Vs.

1. The Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Pantheon Road,
Egmore, Chennai-600 008.

3.The Inspector of Police, P5,
M.K.B. Nagar Police Station,
Chennai-39.
``

... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records of the second respondent in Memo No.558/BDFGISV/2005 dated 20.12.2005 and quash the same and thereby direct the respondents to produce the husband of the petitioner viz., Raghu @ Raghunathan (detenu) now detained at Central Prison, Chennai before this Court and set him at liberty forthwith.

For Petitioner : Mr.V.Parthiban for
Mr.M.Saravanan

For Respondents : Mr.Abudhukumar Rajarathinam
Govt. Advocate (Crl. Side)

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the wife of the detenu by name Raghu @ Raghunathan, who was detained as a ''Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 20.12.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Government Advocate has placed the details, which show that the representation of the detenu dated 03.01.2006 was received by the Government on 09.01.2006 and remarks were called for on 10.01.2006. Thereafter, the remarks were received by the Government on 13.01.2006 and the File was submitted on 16.01.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on the same date i.e. on 16.01.2006 and finally, the Minister for Prohibition and Excise passed orders on 17.01.2006. The rejection letter was prepared on 30.01.2006 and the same was sent to the detenu on 31.01.2006 and served to him on 01.02.2006. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 17.01.2006, there is no explanation at all for taking time for preparation of rejection letter till 30.01.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays (21.01.2006, 22.01.2006, 26.01.2006, 28.01.2006 and 29.01.2006), we are of the view that the time taken for preparation of rejection letter is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

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4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

raa

To

1. The Secretary, State of Tamil Nadu,Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The Commissioner of Police,Greater Chennai, Egmore,Chennai-600008.

3.The Inspector of Police, R5 M.K.B. Nagar Police Station, Chennai-39.

4. The Superintendent, Central Prison, Chennai.
(In duplicate for communication to detenu)

5. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

6. The Public Prosecutor, High Court, Madras.

PV (CO)
km/25.4.

HCP. No.57 of 2006

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